

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1967.02
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	October 21, 2002
DATE OF REPORT:	November 18, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 6, 2002

COMPLAINT ISSUES:

Whether the School Town of Munster and the West Lake Special Education Cooperative violated:

511 IAC 7-27-2(d) regarding the notice of the meeting, by failing to include in the list of expected participants the name of a person who was invited to participate in the October 9, 2002, case conference meeting.

511 IAC 7-25-7(b) by refusing to conduct an additional evaluation requested in writing by the parents on October 10, 2002.

FINDINGS OF FACT:

1. The student (the "Student") is eleven (11) years old, is currently enrolled in a middle school, and is eligible for special education and related services as a student with a learning disability.
2. The *Notice of Case Conference/Annual Case Conference Committee Meeting* (the "Notice") listed individuals, by name and position, who were expected participants in the case conference committee meeting to be held October 9, 2002. The *Notice* did not list the local director of special education (the "Director") or the principal of the Student's former elementary school (the "Elementary School Principal") as expected participants in the meeting.
3. The Parents invited the Director to attend the case conference committee meeting, and the Director invited the Elementary School Principal to attend. A second notice of the meeting listing the Director or the Elementary School Principal, or both, as expected participants in the October 9, 2002, case conference committee meeting was not sent to the Parents. The Director and the Elementary School Principal participated in the case conference committee meeting on October 9, 2002.
4. The Student's re-evaluation was conducted during the month of September, 2002, and discussed at the case conference committee meeting held October 9, 2002. By dated October 10, 2002, Parents requested an additional evaluation.
5. In a letter dated October 15, 2002, the Director denied the Parents' request for an additional evaluation. The Director concluded, "Article 7 does not require a 'more comprehensive evaluation' than that which was completed ... in September, 2002." The Director's letter did not include all of the content required by 511 IAC 7-22-2(d), such as a notification of sources to contact to obtain assistance in understanding

the provisions of Article 7 and a statement that disagreements between the Parents and the public agency may be resolved through mediation or a due process hearing.

6. The *Notice of Procedural Safeguards* was given to the Parents prior to and again during the case conference committee meeting on October 9, 2002. During that meeting the Director informed the Parents of the availability of mediation and followed up with a letter enclosing information about mediation and offering to answer questions about mediation, due process hearings, or low cost legal services. However, this letter was provided before, not in direct response to, the Parents' request for an additional evaluation.

CONCLUSIONS:

1. Findings of Fact #2 and #3 indicate that the notice of the Student's October 9, 2002, case conference committee meeting did not include a complete list, by name and title or position, of all expected participants in the meeting. Specifically, the Director and the Elementary School Principal participated in the meeting, but they were not listed in a notice of the meeting sent to the Parents. Finding of Fact #3 indicates that the Director invited the Elementary School Principal, whereas the Parents themselves invited the Director. Although the notice of a meeting is not required to list persons invited by a parent, the notice must list expected participants invited by public agency personnel. Therefore, a violation of 511 IAC 7-27-2(d) occurred as to the failure to notify the Parent of the expected participation of the Elementary School Principal.
2. Findings of Fact #4 and #5 indicate that the public agency refused to conduct an additional evaluation requested by the Parents. When refusing to conduct an educational evaluation requested by a parent, the public agency must provide to the parent a written notice containing the information required by 511 IAC 7-22-2(d).. Finding of Fact #5 indicates that Director's response did not contain all of the required information. Therefore, a violation of 511 IAC 7-25-7(b) occurred as to the failure to provide an adequate prior written notice of the refusal to provide an additional evaluation.

The Department of Education, Division of Exceptional Learners requires the following corrective actions based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTIONS:

The School Town of Munster and the West Lake Special Education Cooperative shall:

1. Review and, if necessary, revise procedures to ensure that an updated notice of a case conference committee meeting is sent to the parent when there are additional expected participants who have been invited by personnel of the school corporation or special education cooperative.

By December 31, 2002, send to the Division an assurance statement that written procedures have been reviewed and, if necessary, revised. If the written procedure is revised, a copy of the revised procedure shall be enclosed with the assurance letter.

2. By December 16, 2002, either:
 - a. Send to the Parents a letter informing them that an additional evaluation of the Student will be conducted and the case conference committee convened by sixty (60) instructional days from the date the Director received the Parents' letter dated October 10, 2002; or

- b. Send to the Parents a letter providing prior written notice of the public agency's refusal to conduct an additional evaluation of the Student. The prior written notice must contain the content required by 511 IAC 7-22-2(d).

By December 31, 2002, send to the Division a copy of the letter sent to the Parents.